

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
FERTILIZER INSPECTION ADVISORY BOARD MEETING (FIAB)
AB 856 Subcommittee
Sacramento, California
July 13, 2010
MINUTES**

MEMBERS

John Salmonson
Katherine Borchard
Neil Edgar
Jake Evans
Doug Graham
Robert Horowitz
Rachel Oster
Claudia Reid
Sandy Simon
Bill Wolf

CDFA

Asif Maan
Amadou Ba
Nirmal Saini
Avnee Jivabhai
Luz Roa
Danielle House
Nick Young

INTERESTED PARTIES

Ray Green
Steve Beckley
Nick Lapis
John Ashley
Peggy Miars
Paul Lipscomb
Renee Pinel
Gary Willy
Chris Totten
Kim Dietz
John Peck
Bob Myers
Lindsay Fernandes-
Salvador

CALL TO ORDER

Chairman John Salmonson called the meeting to order at 9:01 a.m. A quorum was established.

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Salmonson welcomed everyone to the meeting. Self-introductions were made.

MINUTES OF THE LAST BOARD MEETING

Chairman Salmonson asked the Fertilizer Inspection Advisory Board AB 856 Subcommittee members to review the minutes of the meeting. Ms. Claudia Reed asked to include the following statements: regulations will be designed to not adversely affect commerce; like any other law, AB 856 can be amended if necessary through legislative process; and Mr. Bill Wolf's concerns with phasing into regulating was regarding program efforts duplicating Organic Material Review Institution (OMRI), namely the duplication of inspections and the material review process and potential conflicting outcomes or decisions regarding the same products.

MOTION: A motion was made by Mr. Sandy Simon to accept the minutes to include the statements as presented by Ms. Claudia Reid. Mr. Doug Graham seconded the motion. The motion passed unanimously.

COMPOST WORKING GROUP RECOMMENDATIONS

Dr. Asif Maan reviewed the topics discussed at the compost working group meeting on June 21st, 2010 in Sacramento. The group reviewed and discussed the compost lab analysis data and labeling issues and made recommendations for the AB 856 Subcommittee's recommendation. The group also reviewed the importance of compost in agriculture, the value of nutrient information for the farmers for their nutrient management plan, and lab nutrient analysis in regards to labels/labeling and the composting process. They noted that Local Enforcement Agents (LEA) enforce CalRecycle composting requirements and data can be obtained by CDFA through CalRecycle rather than duplicate inspections. CDFA will conduct an inspection once a year unless there is a complaint or violation. The group then reviewed the licensing and label registration requirements for bulk compost. They concluded that the Association of American Plant Food Control Officials (AAPFCO) investigational allowances are appropriate for determining compliance with minimum nutrient guarantees for compost.

The compost working group developed the following recommendations: compost developed for organic production are to be licensed and labels should be registered; label minimum guarantees have to be met for nutrients; registered labels may be published on the composter's website; composters provide registered labels to the customer instead of lab analysis; CDFA should adopt AAPFCO investigational allowances for compost nutrient guarantee compliance, which does not require a regulation; CDFA is to develop a process for complaints/violations and will include AAPFCO investigational allowances; and CDFA must provide outreach to composting industry and the farming community.

Discussion ensued regarding the progressive discipline as outlined in the regulations. Ms. Rachel Oster asked if the investigation process will be included in the regulations or if they will be a manual that will serve as a guideline. The program will develop a procedural manual and will submit to the Subcommittee for review. The composting procedures will vary slightly from the review of other organic input materials.

Mr. Nick Lapis asked the program to review micronutrient requirements. Mr. Nick Young noted that the program will require a minimum level in the guarantees. Dr. Amadou Ba clarified that the guarantees cannot be lower than those detectable by lab analysis. He also noted that secondary and micronutrient guarantee minimums have to be met. Variability will be cited with AAPFCO nutrient regulations. Discussion ensued about the minimum guarantees for organic input materials and compost products. It was noted that products avoiding the use of the phrase "suitable for organic use" are not exempt from the OIM requirements for that reason.

MOTION: A motion was made by Mr. Doug Graham to accept the Compost Working Group's recommendations. Mr. Neil Edgar seconded the motion. The motion passed unanimously.

CUSTOM BLEND DISCUSSION

Chairman Salmonson asked the group whether each blend should be registered separately since bagged blends have to be registered. These products do have guarantees that will need to be regulated. Mr. Jake Evans suggested registering blends within a certain set of parameters. Mr. Doug Graham suggested that anyone creating a blend prove that the inputs are all registered with CDFA and provide records when applying for registration. Ms. Lindsay Fernandez-Salvador noted that OMRI does not address custom blends because they are difficult to regulate. Ms. Katherine Borchard noted that Accredited Certifying Agents (ACA) ask for all the records for everything that is in the blend. Mr. Evans noted that ACA has a quick turnaround time once all things are submitted. Mr. Salmonson suggested an expedited track for custom blends that contain only CDFA approved inputs. Reactivity is always an issue. If you are using a custom blend, it must be registered with CDFA.

Dr. Maan noted that blending at the farm level is out of CDFA jurisdiction. At the manufacturers level, CDFA is to ensure that all ingredients being used and the product resulting meet National Organic Program (NOP) requirements and standards.

Mr. Simon questioned what the term custom blend entails. Dr. Maan clarified that products are a formulation of various ingredients. Regardless of the formulation, the label and derivation statement must be submitted to CDFA scientific review to see if it complies with NOP standards. A custom blend is a specifically requested formulation per a customer's request.

Mr. Wolf suggested charging a flat fee per ingredient for blends. Mr. Simon noted that there is a fine line between custom blends and custom formulations. Mr. Evans suggested issuing custom blender licenses that will allow approved products be mixed under the license. Mr. Salmonson suggested charging a custom blend fee that must be accompanied with a list of potential blends. Mr. Salmonson then suggested developing a working group to study this issue in more detail then make recommendations to the Subcommittee.

A working group will meet on Monday August 2, 2010 at 3:00 p.m. in Fresno to discuss the custom blends issue. The group will include: Jake Evans, John Salmonson, Claudia Reid, Robert Horowitz, and Rachel Oster.

DRAFT REGULATIONS

Dr. Amadou Ba presented the draft regulations of a civil penalty matrix for label registration and on-site inspection. He noted that violation classes are designated as

“Serious,” “Moderate,” and “Minor.” Repeat violations may result in an escalation of violation class. Serious and moderate violations can be downgraded based upon the evidence, the factual circumstances, mitigating factors and the cooperation of the violator. He reviewed the definitions for each class of violation and presented a matrix that will be used to establish the level and severity of a particular violation and the corresponding penalty range for each of the violation classes.

Mr. Salmonson requested that the program present an example of completed registration applications to the subcommittee at the next meeting so that the group can have an idea of what is expected from industry.

Mr. Evans questioned why there is a 30 day compliance timeframe when the result should be immediate. Dr. Ba noted that this gives violators 30 days to pull all products from throughout the state and provides an opportunity for appeal. Discussion arose as to why the violation matrix is not included in the procedures rather in the regulations. The program will get the department’s legal opinion about this. It was clarified that there is a difference between civil and criminal infractions. The disparities between the matrix and the regulations are a result of these differences.

INSPECTION PROTOCOL

Mr. Young informed the group that the program is in the process of developing the inspection protocol and he presented an overview of the OIM site inspection procedures. Organic input manufacturer inspections will be conducted at least once a year by CDFA and out of state inspections with NOP help for out of state inspections. The inspections may be announced or unannounced. Announced inspections will be scheduled with the manufacturer and should coincide with production time. Inspectors will have full access to the facility including paperwork and sampling. During inspections: all organic inventories will be reviewed; samples will be taken; an organic input material checklist will be completed to assess areas of risk, control points, noncompliance, etc. A record review of incoming ingredient inventory will be cross referenced with manufacturing use & finished product records; ingredients will be verified as the material listed; and a report will be developed including all the information gathered and an exit interview information. If any items are not found or are incomplete a follow-up inspection will be conducted. In order to implement these procedures, an inspection manual will be developed, Washington State Department of Agriculture (WSDA) will be consulted, a working group can be established for assistance, and a finalized inspection manual will be developed by October 31, 2010.

Mr. Salmonson asked who will be conducting these inspections. Mr. Young replied that in California it will be CDFA investigators and inspectors and out of state inspections will be done by NOP recognized third parties. Dr. Maan noted that additional staff has been authorized but the budget must pass before these positions can be filled. Discussion ensued about the specific methods that will be used during inspections as well as the individuals that will be conducting the inspections. Dr. Maan noted that the program will consult WSDA and OMRI to develop these procedures.

Mr. Wolf questioned who pays for out of state inspections. Dr. Maan noted that the law does not mention compensation for these inspections.

Ms. Fernandez-Salvador mentioned that there may be complications when inspecting a product because the origin of each ingredient may be difficult to track and third party formulated ingredients may or may not be in compliance.

ADDITIONAL ITEMS / NEXT MEETING

The next Subcommittee meeting will be on August 3, 2010 in Fresno, CA at 9:00 a.m. at the California Cotton Ginners & Growers Association.

The Subcommittee meeting after that will be on September 15, 2010 in Monterey, CA at 9:00 a.m and October 21, 2010 in Sacramento, CA at 9:00 a.m.

MOTION: A motion was made by Mr. Doug Graham to adjourn the meeting. Mr. Sandy Simon seconded the motion. The motion passed unanimously. The meeting was adjourned at 3:32 p.m.

Respectfully submitted by:

Asif A Maan, Ph.D., Branch Chief
Feed, Fertilizer, Livestock Drugs and Egg Regulatory Services
Inspection Services

Date